

31.1.8

9a (משנה ג) → 10b (משום נימוס)

Note: our סוגיא focuses on the first part of משנה ג and משנה ד (which are printed together in our גמרות until p. 9)

1. וְכַלְפֶּטֶר חֲמֹר תִּפְדֶּה בְשֵׁה וְאִם לֹא תִפְדֶּה וְעָרַפְתּוּ וְלֹא בְכוֹר אָדָם בְּבִינֵיךָ תִפְדֶּה: שְׁמוֹת יג:ג

2. וְהַעֲבֹרֶת כְּלִפְטָרֵיהֶם לֵה' וְכַלְפֶּטֶר אֲשֶׁר בְּהֵמָה אֲשֶׁר יִהְיֶה לָּהּ הַזְכָּרִים לֵה': שְׁמוֹת יג:ב

3. כִּלְהַבְכוֹר אֲשֶׁר יוֹלֵד בְּבִקְרָךְ וּבְצִאֲנֹה הַזְכָּר תִּקְדִּישׁ לֵה' אֱלֹהֶיךָ לֹא תַעֲבֹד בְּבִכֹר שׁוֹרְךָ וְלֹא תִגְזַז בְּכוֹר צֹאֲנֶךָ: דְּבָרִים טו:ט

4. מִכִּלְהַאֲכֵל אֲשֶׁר יֵאָכֵל אֲשֶׁר יָבוֹא עָלָיו מִיָּם יִטְמָא וְכִלְמִשְׁקָהּ אֲשֶׁר יִשְׁתֶּה בְּכִלְכְּלֵי יִטְמָא: וּקְרָא יא:לד

5. לֹא תֹאכְלוּ כְלִינְבֵלָה לְגֹר אֲשֶׁר בְּשַׁעֲרֵיךָ תִתְנַנֵּה וְאֹכְלָה אוֹ מִכֹּר לְנִכְרֵי כִי עִם קְדוֹשׁ אֲתָה לֵה' אֱלֹהֶיךָ לֹא תִבְשֵׁל גְּדִי בַחֲלֵב אִמּוֹ: דְּבָרִים יד:בא

6. וְאִנְשֵׁי קֹדֶשׁ תִּהְיוּ לִי וּבִשֶׁר בְּשֻׁדָּה טְרֵפָה לֹא תֹאכְלוּ לְכָלֵב תִּשְׁלַכּוּן אֹתוֹ: שְׁמוֹת כב:ל

I כהן משנה ג: multiple births and liability to כהן

- a If: he had a חמורה that hadn't birthed and she bore two males → 1 kid to כהן; if a male and female → 1 kid, which he keeps
- i מבכרת מן הזכרים (אפשר לצמצם) ריה"ג ריה"ג: our ruling is *contra* ריה"ג ריה"ג: even ריה"ג would agree here; only re: טהורה does he allow for 2 per v1 (הזכרים) – not here
- 2 Rejection: if so, משנה should give case where we saw them birthed together
- (a) And: explicit ברייתא where ריה"ג allows for 2 בכורות from חמורה המבכרת
- ii Note: חציצה רבנן must hold that a partial connection with birth canal is מקדש (else, the twin is a חציצה)
- 1 Rejection (רבא) מין במינו (the two foals) → חציצה no
- iii Comment: on 2nd case – if M&F → 1 kid, which he keeps
- 1 Question: if he keeps it, why separate a kid?
- 2 Answer: to remove its prohibition
- (a) Per: ר"ש who holds that פטר חמור is אסור בהנאה – ר"ש disagrees and permits
- 3 ר"ש's source: עולא – there's no precedent for something requiring redemption and being permitted
- (a) Challenge: בכור אדם requires redemption – but is מותר until then
- (b) Rather: there's no precedent for something requiring redemption via a שיה (e.g. specific vehicle) and מותר
- (i) Challenge: ר"ש would use boiled grasses (at value of donkey) to redeem
1. Block: indeed, if he pays the value, can be something else; but if שיה value doesn't matter
- (ii) Challenge: מע"ש requires specific redemption (coin) – yet ר"ש holds that w/ קידושין – valid
- (iii) Defense: he would allow for פטר חמור/w/ קידושין as well
1. Reason: woman knows that מע"ש isn't redeemed via קידושין → she eats in ירושלים (→ הנהא)
2. Similarly: woman knows that פ"ח not redeemed via קידושין; redeems on שיה and benefits the difference
- 4 ר"ש's source: since the redemption (שה) is permitted; redeemed item (חמור) must also be מותר
- (a) Challenge: שביעית is prohibited but its פדיון (e.g. money used to buy שביעית) is permitted
- (b) Block: in case of שביעית, also prohibited per rule of שביעית בקדושת שביעית
- iv Alternate explanation: ר"ש ור"ש disagree about exegesis of v3
- 1 ר"ש both שורך and צאנך exclude a בכור co-owned with non-Jew (may shear or work)
- 2 ר"ש excludes פטר חמור (may shear him); צאנך excludes בכור אדם (may work him)
- (a) Observation: the need for 2 exclusive words is understood per ר"ש (separate exclusions)
- (i) But: why would ר"ש need both words – they exclude the same circumstance
- (ii) Additionally: would ר"ש forbid working with אדם בכור?
- (b) Rather: they agree that שורך excludes אדם בכור
- (i) Disagree: about צאנך
1. ר"ש follows his own approach; an animal co-owned with גוי is liable for בכורה
- a. Therefore: he needs צאנך to permit such a בכור (co-owned) to be sheared and worked
2. ר"ש co-owned with גוי is already exempt; no need for צאנך to allow shearing
- a. Therefore: צאנך excludes פטר חמור – may be sheared (→ מותר בהנאה)
3. Note: we understand why text uses 2nd person suffix – per ר"ש (for צאנך -not co-owned)
4. But: per ר"ש, why the need for the pronominal suffix? – קשיא

- II Tangential discussion: ר"ש's position about permissibility of benefiting from פטר חמור after breaking its neck (עריפה)
- a ר"ש agrees with ר"י that, after עריפה, it is prohibited to benefit
- i Reasoning: infers from עגלה ערופה (which is אסור after בהנאה)
- ii ר"ש's source (ר"בא): per ברייתא, listing איסורי הנאה (e.g. צפרי מצרע, שור הנסקל) – have טומאת אוכלים
- 1 And: ר"ש concurs in case of ב"ח, since it had a time (before being cooked together) when it was permitted (מותר בהנאה)
- 2 ר"ש's reasoning (throughout) – per v5 – must be food that you may feed others (i.e. מותר בהנאה)
- (a) And if: ר"ש held that פטר חמור is still permitted בהנאה even after עריפה, he should have dissented there as well
- (b) Challenge: why does ר"ש couch his agreement re בבח in שעת הכשר? He holds (per vv5-6) בב"ח is מותר בהנאה
- (i) Answer: he was providing two arguments - that it may be fed to others
1. And: even for those who forbid הנאה, it had a שעת הכושר
- (ii) Rejection: perhaps it is a case where he didn't intend it as food → מטמא ט"א not
- 3 Question: if that is the case, what is ר'בנן's position?
- (a) Students (before ר"ש): since it is אסור, that inheres מחשבה (איסורו חושבו)
- (i) Challenge: (טהרות א:א) – 13 rules about עוף טהור, including requiring מחשבה (but not הכשר)
1. Answer: that משנה is authored by ר"ש, who would require intent for מאכלות אסורות
- (ii) Challenge: (עוקצין ג:ג) – נבלת בהמה טמאה (anywhere) & נבלת עוף טהור (in כפר) – need מחשבה
1. Answer: that, too, is authored by ר"ש
- (iii) Challenge: (ibid) – נבלת בהמה טהורה (anywhere) & נבלת עוף טהור in שוק – doesn't need מחשבה
1. Implying: that נבלת בהמה טמאה requires מחשבה (and we don't apply איסורו חושבו)
2. This: cannot be ר"ש, as he responds in סיפא
3. Where he states: that camel, hare, hyrax and pig don't need מחשבה, as they have 1 סימן טהרה
- (b) Rather (ר"בא): no one subscribes to איסורו חושבו
- (i) And: if he broke the neck (of the פטר חמור) - indeed רבנן agree that it has no טומ"א
- (ii) Our case: he slaughtered it (for practice), per dispute נימוס
1. ר"א ruled that if someone slaughtered a raven for practice – the דם is מכשיר
2. ר"א: blood of שחיטה is always מכשיר
- a. Difference: whether איסורו חושבו; נימוס holds that the blood is מכשיר other things
- b. But: for itself, the raven needs מחשבה
- i. ר"א: דם שחיטה is always מכשיר – even for itself, no intent needed
- ii. Challenge: perhaps ר"א's reasoning is that עורב has some טהרה → סימני טהרה needed
- iii. Source: ר"ש's statement (above) re hare, hyrax etc.
- c. Note: if that is the reason (סימני טהרה) – no need to set it up as "practice"
- i. Could have been: an unintentional (מתעסק) slaughtering
- ii. Answer: indeed, ר"א could have presented it that way
- iii. But: due to נימוס's position, he used להתלמד